

<p>1 VOLUME: 11</p> <p>2 PAGES: 1 - 67</p> <p>3 EXHIBITS: 23 - 30</p> <p>4 IN THE UNITED STATES DISTRICT COURT</p> <p>5 FOR THE DISTRICT OF MASSACHUSETTS</p> <p>6</p> <p>7 CIVIL ACTION NO: 04-CV-10421-JLT</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>	<p>Page 3</p> <p>1 I N D E X</p> <p>2</p> <p>3 WITNESS EXAMINATION</p> <p>4 GREGORY R GEREMESZ</p> <p>5 By Mr. Brooks 4</p> <p>6</p> <p>7 E X H I B I T S</p> <p>8 NUMBER PAGE</p> <p>9 23 Copy of series of e-mails between 18</p> <p>10 Christopher Brown and Eileen Barrett</p> <p>11 24 Copy of e-mail to Eileen Barrett 20</p> <p>12 from Christopher Brown and to Christopher Brown from Eileen Barrett</p> <p>13 25 Copy of e-mail to Gregory Geremesz 34</p> <p>14 from Christopher Brown</p> <p>15 26 Copy of e-mail to Gregory Geremesz 38</p> <p>16 from Christopher Brown</p> <p>17 27 Copy of series of e-mails to Gregory 38</p> <p>18 Geremesz from Christopher Brown</p> <p>19 28 Copy of e-mail to Mr. Geremesz and 44</p> <p>20 Mr Guerrero from Eileen Barrett</p> <p>21 29 Copy of e-mail to Mr Geremesz, 46</p> <p>22 Mr. Guerrero and Mr. Howell from Eileen Barrett</p> <p>23 30 Copy of e-mails 49</p>
<p>Page 2</p> <p>1 APPEARANCES:</p> <p>2 PETER S. BROOKS, ESQUIRE</p> <p>3 SEYFARTH SHAW, LLP</p> <p>4 Two Seaport Lane, Suite 300</p> <p>5 World Trade Center East</p> <p>6 Boston, Massachusetts 02210-2028</p> <p>7 For the Plaintiff and Intervenor Defendant</p> <p>8 ITV Direct, Inc</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>	<p>Page 4</p> <p>1 PROCEEDINGS</p> <p>2</p> <p>3 GREGORY R. GEREMESZ,</p> <p>4 having been satisfactorily identified and duly</p> <p>5 sworn by the Notary Public, was examined and</p> <p>6 testified as follows.</p> <p>7</p> <p>8 CONTINUED EXAMINATION</p> <p>9 BY MR. BROOKS:</p> <p>10 Q When we left off yesterday, we were discussing</p> <p>11 the negotiations that you had with ITV</p> <p>12 concerning the transfer of the web site</p> <p>13 Supreme Greens; right?</p> <p>14 A Yes.</p> <p>15 Q And you testified how it was originally</p> <p>16 directed to the web site of Healthy Solutions?</p> <p>17 A Health Solutions.</p> <p>18 Q Health Solutions?</p> <p>19 A Health Solutions, yes.</p> <p>20 Q And then it was transferred to ITV?</p> <p>21 A Yes.</p> <p>22 Q And then transferred back to Health Solutions?</p> <p>23 A Yes.</p>

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1 A Yes.

2 Q So that wasn't a true statement?

3 A My interpretation of that was that it was

4 redirected. And several of these, there's

5 been a little confusion of what redirected was

6 and transferred. I took that to mean that it

7 was redirected back to you.

8 Q Is there a difference between redirecting --

9 when you direct it, it just means, if a user's

10 going to Supreme Greens.com, they get

11 automatically transferred to somebody else's

12 web site?

13 A Yes.

14 Q That's redirecting?

15 A Yes.

16 Q What is transfer?

17 A Transfer in my eyes means that you transfer

18 the ownership of it to someone else. It's

19 being transferred to someone else and they

20 would control it. Maybe it would be the

21 ownership, maybe it would just be that they

22 have control of the web site. By redirecting

23 it it keeps me in control of the web site and

1 A I believe I was making Internet sales.

2 Q And do you know if those sales were coming

3 from the Supreme Greens.com web site?

4 A I'm not sure.

5 Q Never transferred ownership of the domain name

6 to ITV?

7 A No, I did not.

8 Q I asked you before about the

9 FDA investigation. Tell me what you knew

10 about that investigation.

11 A The only thing I knew from Donald was that the

12 FDA was investigating them for several days at

13 that point and that they were investigating,

14 according to Donald, the Supreme Greens.

15 Q Did he tell you what was being investigated?

16 A No.

17 Q Did you get any communications from ITV about

18 what it was about?

19 A Just that it was about the Supreme Greens.

20 Q What about the Supreme Greens, do you know?

21 A I don't know. I don't recall any -- I don't

22 recall any details about what specifically

23 about the Supreme Greens it was.

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1 where it's pointed.

2 Q Did you redirect the web site in February of

3 2004 to ITV?

4 A I'm not sure the dates that it was redirected

5 back. It was redirected back and forth a

6 couple of times.

7 Q How would you find out?

8 A I don't know.

9 Q Is there any record through any Internet

10 service that would show where it was being

11 directed at any particular point in time?

12 A I'm not sure.

13 Q You have records of Internet sales or Internet

14 orders that were made at Health Solutions?

15 A I'm not sure whether we have the ability to

16 break down a sale on the Internet versus a

17 phone call that comes into the office. I

18 believe -- I'm not absolutely certain, but I

19 believe they kind of go into a pool of sales,

20 and we don't track where it comes from

21 specifically.

22 Q Do you know whether you were continuing to

23 make Internet sales in February of 2004?

1 MR. BROOKS: Can I have that

2 marked as my next exhibit, please.

3 (Exhibit Number 28

4 was marked for Identification)

5 Q I have marked what appears to be an e-mail of

6 February 13th, 2004, from Eileen Barrett to

7 you, and it appears also to Mr. Guerrero.

8 A Yes.

9 Q Have you seen this before?

10 A I have, yes.

11 Q Do you believe this is the first time you were

12 notified of the FDA investigation?

13 A No.

14 Q Do you recall when you were first notified of

15 that investigation?

16 A It was prior to this, and it was on a phone

17 call from -- I don't recall whether I called

18 Donald or Donald called me. It was a phone

19 call that I had with Donald.

20 Q And what did he say to you?

21 A He said that the FDA had been there all week

22 or all weekend, I don't recall, and that they

23 were investigating the Supreme Greens.

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1 Q Do you recall having a conversation with Wayne  
2 Callahan?  
3 A Yes.  
4 Q Tell me what Mr. Callahan said to you.  
5 A I had several conversations with Mr. Callahan.  
6 Q Tell me the first one you had with him.  
7 A I believe that I contacted Mr. Callahan from  
8 direction -- Donald gave me the direction to  
9 call him in regards to payments that were  
10 behind.  
11 Q So what did you say to Mr. Callahan and what  
12 did he say to you concerning the  
13 FDA investigation?  
14 A In the very last phone conversation I had with  
15 Mr. Callahan Mr. Callahan had said ITV put a  
16 stop payment on the check and that somebody  
17 would contact me in the future.  
18 Q Did he say why a stop payment had issued?  
19 A Not that I recall.  
20 Q Was it because the FDA investigation that they  
21 were halting further payments?  
22 A I didn't know.  
23 Q In the e-mail of February 13th Eileen Barrett

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1 seems to be reflecting a conversation of that  
2 date with Wayne Callahan and you in which she  
3 said that all payments would be suspended  
4 pending the outcome of the FDA's inquiry.  
5 A I don't recall. Again, I don't remember the  
6 specifics of our conversation. As I recall  
7 it, it -- I remember it to be primarily all  
8 about money and the checks and how come my  
9 check wasn't being cleared and things of that  
10 nature.  
11 Q Did Mr. Callahan or anybody else at ITV tell  
12 you that these payments were being withheld  
13 because of the FDA inquiry?  
14 A This letter did.  
15 Q Prior to February 13th had you been informed  
16 that payments were being suspended because of  
17 the FDA inquiry?  
18 A I don't recall.  
19 (Exhibit Number 29  
20 was marked for Identification)  
21 Q I have marked what appears to be a copy of an  
22 e-mail sent on March 12th, 2004, to you,  
23 Mr. Guerrero, and Mike Howell?

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1 A Yes.  
2 Q In the e-mail Eileen Barrett is asking for the  
3 formulation on the Supreme Greens product?  
4 A Yes.  
5 Q Did you provide that to her?  
6 A No.  
7 Q Did Mr. Guerrero provide it to her?  
8 A No.  
9 Q Did Mike Howell provide it to her?  
10 A No.  
11 Q Did either of you provide it to the FDA?  
12 A No.  
13 Q Why not?  
14 A Because I didn't believe the FDA was  
15 requesting it.  
16 Q Why didn't you believe that?  
17 A Because I didn't have trust in ITV at that  
18 point. I thought that they could possibly  
19 want to remanufacture the product and have the  
20 formulation to do so based on different  
21 threats I've had from Donald that he was going  
22 to do that in the past.  
23 Q So you didn't believe that it was a genuine

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1 request of the FDA?  
2 A I did not.  
3 Q Did you call the FDA to ask them?  
4 A Yes.  
5 Q Who did you call?  
6 A I don't remember the specific person's name  
7 that I spoke to. I spoke to two or three  
8 people over there.  
9 Q And what did they tell you?  
10 A They said they couldn't share the details of  
11 the case -- of any case with me because the  
12 case wasn't against me, it was against  
13 whoever -- they wouldn't even confirm there  
14 was a case against ITV. And then they said  
15 they wouldn't request a formulation from a  
16 distributor of a manufacturer anyways.  
17 Q Okay. Did you respond to the e-mail in any  
18 fashion by saying, we're not going to do this  
19 or we don't believe your request is genuine?  
20 A I don't believe so.  
21 Q Just ignored it?  
22 A Yes.  
23 Q Do you recall at some point in time receiving